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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,073	05/21/2002	Leah Simkins	NRC P56 (6160)	6693

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BAYER CORPORATION
PATENT DEPARTMENT
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EXAMINER

MAI, NGOCLAN THI

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 11/06/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,073

Applicant(s)

SIMKINS ET AL.

Examiner

Ngoclan T. Mai

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/1/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 and 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, the phrase "as formed to established a dielectric oxide of the alloy at pore walls" is unclear as to whether a dielectric oxide is claimed.

The phrase "wgt. ratio of about (Ta,Nb)₉Si₂" is confusing because what "wgt. ratio" stands for? If it is referring to weight ratio then (Ta,Nb)₉Si₂ is a formula and not a weight ratio.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kumagai et al.

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Kumagai disclosed an improved solid capacitor comprising a porous body (15) of compressed and sintered particles of a mixture comprising a film-forming metal such as Ta and particles of a suitable dopant such as a silicon (see col. 3, line 58 to col. 4, lines 14) and an anodic or dielectric oxide film (16) formed on the body.

5. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Marsh et al.

Marsh disclose a compact having a silicon content of about 50 to 700 ppm formed by pressing and sintering silicon containing material and tantalum. Although Marsh did not specifically disclose a compact having weight ratio, as best understood, as Ta_9Si_2 , the compact taught inherently has the claimed weight ratio since the concentration ranges of silicon in the compact taught by Marsh include about 500 ppm, which is the amount of Si in the product to give weight ratio of Ta_9Si_2 as disclosed in the applicant's specification.

6. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Tripp et al.

Tripp disclosed an electrolytic capacitor having an anode made of a sintered mass of agglomerated powder comprising tantalum and silicon (see abstract).

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Albrecht et al.

Albrecht disclosed a porous valve anode for capacitor formed by sintering a compact mixture of valve metal such as Ta and Nb and a very finely divided metal oxides in quantities of up to 5000 ppm relative to the quantity of metal, where in the metal oxide is silicon oxide (see Example 1).

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8. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hahn.

Hahn disclosed porous body for use in the electronic industry comprising a pressed and sintered mixture of tantalum and lubricant such as silicon nitride in the amount of 0.01 to 10% by weight. Although Hahn did not specifically disclose a body having weight ratio, as best understood, as Ta_9Si_2 , the body taught inherently has the claimed Ta, Si weight ratio since the body taught by Hahn appears to include silicon in the amount that would give the claimed weight ratio of Ta_9Si_2 as disclosed in the applicant's specification.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoclan T. Mai whose telephone number is (703) 306-4162. The examiner can normally be reached on 7:30-4:00 PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (703) 308-1146. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Ngoclan T. Mai
Primary Examiner
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